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BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Application Number: 10/702,184
Filing Date: November 05, 2003
Appellant(s): MINEI ET AL.

_____
John C. Pokotylo
(Registration No. 36,242)
For Appellant

EXAMINER'S ANSWER

This is in response to the Reply Brief filed on June 16, 2009 (Reply Brief

entered/acknowledge, and the Examiner Answer stands for 35 U.S.C. 101 and 35

U.S.C. 103(a) rejections) and remanded to the Examiner on 04/19/2010 (New ground of

rejection for 35 U.S.C. 112, second paragraph) for Examiner Answer mailed on May 15,

2009.

REAL PARTY IN INTEREST

1.   The statement identifying the real party in interest is contained in the appeal

brief, which is Juniper Networks, Inc.

RELATED APPEALS AND INTERFERENCES

2.   The examiner is not aware of any related appeals, interferences, or judicial

proceedings, which will directly affect or be directly affected by or have a bearing on the

Board's decision in the pending appeal.

STATUS OF THE CLAIMS

3.   The statement of the status of claims contained in the appeal brief is correct.

Claims 1-14, 16, 17, 19, and 24-48 are pending and involving in this appeal.

Claims 15, 18, and 20-23 have been canceled.

STATUS OF AMENDMENT

4.   The appellant's statement of the status of amendments after final rejection

contained in the brief is correct.

SUMMARY OF CLAIMED SUBJECT MATTER

5.   The summary of claimed subject matter contained in the appeal brief is correct.

GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

6.   The appellant's statement of the grounds of rejection to be reviewed on appeal is

correct (35 U.S.C. 101 and 35 U.S.C. 103(a) Rejections).

The new grounds of rejection have been rendered with respect to claims 25 and

42-43 under 35 U.S.C. 112 Rejections, 35 U.S.C. 112 Rejections presented in the

sections (9-14).

CLAIMS APPENDIX

7.   The copy of the appealed claims contained in the Appendix to the appeal brief is

correct.

EVIDENCE (REFERENCES) RELIED UPON

8.   List of evidence relied upon.

(a)   US Patent No. 6,965,592, published on November 15, 2005, filed on

January 24, 2001 by Tinsley et al.

(b)   US Patent No. 7,151,775, published on December 19, 2006, filed on

September 23, 1999 by Renwick et al.

NEW GROUNDS OF REJECTION

9.   Claims 25 and 42-43 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

CLAIM REJECTIONS - 35 USC § 112

10.   Claims 25 and 42-43 are rejected under 35 U.S.C. 112, second paragraph, as

being indefinite for failing to particularly point out and distinctly claim the subject matter

which applicant regards as the invention.

11.   The claim 25 and 42-43 recite the following means plus functions limitations:

Claim 25 recites means for determining whether or not the message includes extended

information, means for determining, using a first part of the message and routing

information, whether or not to generate a further message to signal the label-switched

path if the message does not include extended information, and means for determining,

using a second part of the message and routing information, whether or nor to generate

a further message to signal the label-switched path if the message does include

extended information; claim 42 recites means for generating, if it is determined to

generate a further message to signal the label-switched path, a label mapping

message; and claim 43 recites means for generating, if it is determined to generate a

further message to signal the label-switched path, a label mapping message including

an outgoing label, and means for creating a forwarding state binding between the

outgoing label and a label in the message

12.   This limitation invokes 35 USC § 112, paragraph 6 because it meets the 3-prong
analysis set forth in MPEP 2181 as it recites the phrase "means for" or "step for" (or
appellant identifies the limitation as a means (or step) plus function limitation in the
appeal brief) and the phrase is modified by functional language and it is not modified by
sufficient structure, material, or acts for performing the recited function. Also see *Altiris
Inc. v. Semantec Corp.*, 318 F.3d 1363, 1375 (Fed. Cir.2003). 35 USC § 112, paragraph
6, requires such claim to be construed to cover the corresponding structure, material, or

acts described in the specification and equivalents thereof. "If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section § 112." *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ 1845, 1850 (Fed. Cir. 1994)(in banc.). For a computer-implemented means-plus-function claim limitation that invokes 35 USC § 112, paragraph 6, the corresponding structure is required to be more than simply a general purpose computer. *Aristocrat Technologies, Inc. v. International Game Technology*, 521 F.3d 1328, 1333, 86 USPQ2d 1235, 1239-40 (Fed. Cir. 2008). The corresponding structure for a computer-implemented function must include the algorithm as well as the general purpose computer. *WMS Gaming,Inc. v. International Game Technology*, 184 F.3d 1339, 51 USPQ2d 1385 (Fed. Cir. 1999). The written description must at least disclose the algorithm that transforms the general purpose microprocessor to a special purpose computer programmed to perform the claimed function. *Aristocrat*, 521F.3d at 1338, 86 USPQ2d at 1242.

13.   In the instant application, the following portions of the specification and drawings may appear to describe the corresponding structure for performing the claimed function:

(Reference to claim 25) In paragraph [0060], the specification states: Figure 10 is a block diagram of a machine 1000 which may be used to perform one or more of the operations, ... Machine 1000 may include a processor 1010, ... Operations consistent with principles of the invention may be performed by processor 1010 executing instructions. The instructions may be stored in storage device 1020 and/or received via input/output interface 1030. The instructions may be functionally grouped into processing modules."

In paragraph [0061], the specification states: "Machine 1000 may be a router, for example. In an exemplary router, processor 1010 may include a microprocessor and/or (e.g., custom) integrated circuits. ... At least some of storage devices 1020 may include program instructions defining an operating system (OS), a protocol daemon, and/or

other daemons. In one embodiment, methods consistent with the principles of the

invention may be performed by processor 1010 executing the stored program

instructions. At least a portion of the instructions may be stored (temporarily or more

permanently) on storage device 1020 and/or may be received from an external source

via input interface unit 1030."

(Reference to claim 42) The Specification discloses in paragraph [0049]: "The

LSP may be signaled by having the node generate and send its own label mapping

message and by creating the forwarding state binding between this outgoing label and

the label received."

(Reference to claim 43) In Paragraph [0060], the specification states: "Operations

consistent with principles of the invention may be performed by processor 1010

executing instructions"

In paragraph [0061] the specification states: "methods consistent with the

principles of the invention may be performed by processor 1010 executing the stored

program instructions. At least a portion of the instructions may be stored (temporarily or

more permanently) on storage device 1020 and/or may be received from an external

source via input interface unit 1030."

14.   However, the specification and drawings do not disclose sufficient corresponding

structure, material or acts for performing the claimed function.

The Specification indicates that the functions of the three means specified in

claim 25 may be carried by processor 1010 executing program instructions stored in

storage devices 1020 or received from an external source. However, the Specification

does not provide any software instructions, or algorithms that are to be executed by

processor 1010 in order to perform the claimed determining functions. As such,

Appellants have failed to adequately describe sufficient structure for performing the

functions claimed.

The Specification indicates that the functions of the means for generating a label

mapping message, specified in claim 42, and the means for creating a forwarding state

binding between the outgoing label and a label in the message, specified in claim 43,

may be carried out by processor 1010 executing program instructions stored in storage

devices 1020 or received from an external source. However, the Specification does not

provide any software instructions, or algorithms that are to be executed by processor

1010 in order to perform the claimed generating and creating functions. As such,

Appellants have failed to adequately describe sufficient structure for performing the

functions claimed.

GROUNDS OF REJECTION

15.   Claims 14, 16, 17, 19, and 24 are rejected under 35 U.S.C. 101 because the

claimed inventions of the claims 14, 16, 17, 19, and 24 are directed to non-statutory

subject matter.

Claims 1-14, 16-17, 19, and 24-48 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Tinsley et al (U.S. Patent No. 6,965,592) in view of Renwick et al

(U.S. Patent No. 7,151,775).

CLAIM REJECTIONS - 35 USC § 101

16.   35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

17.   Claims 14, 16-17, 19, and 24 are rejected under 35 U.S.C. 101 because the claimed inventions of the claims 14, 16-17, 19, and 24 are directed to non-statutory subject matter.

Claim 14 recited "A machine-readable storage device storing...: a first field..., a second field..., and a third field..." which is directed to non-statutory subject matter for at least the reason that the plurality o fields are not in manner so as to be executable in/by a computer/processor. Further, a collection of fields (data structure), per se, is not an actual program product or an executable instructions/codes, instead being non-functional descriptive material. Thus the rejection under 101 as being an abstract idea, not being tangibly embodied, and not being in a manner so as to be executable in or by a computer or processor.

Other dependent claims, which are not specifically cited above are also rejected because of the deficiencies of their respective parent claims.

CLAIM REJECTIONS - 35 USC § 103(a)

18.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

19.   Claims 1-14, 16-17, 19, and 24-48 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Tinsley et al (U.S. Patent No. 6,965,592) in view of Renwick et al

(U.S. Patent No. 7,151,775).

20.   As to claim 1, Tinsley et al teach a method comprising: receiving a message for

establishing a label-switched path (figures 8-9; and column 10 lines 20-24); determining

whether or not the message includes extended information (reference teach that check

the message has extension header) (figures 4s; and column 5 line 57 to column 6 line

28); if the message does not include extended information (MPLS header), determining,

using a first part of the message (IP header) and routing information (reference teach

that using IP header for routing); and if the message does include extended information

(MPLS header), determining, using a second part of the message (MPLS header) and

routing information (reference teach that using MPLS header for routing) (figures

6A-6B and 8-9; column 6 line 56 to column 7 line 57; and column 10 line 16 to column

11 line 29).

However, Tinsley et al do not explicitly teach that whether or nor to generate a

further message to signal the label-switched path.

Renwick et al teach a method (see abstract; and column 1 lines 27-35),

comprising: whether or nor to generate a further message to signal the label-switched

path based on determining whether or not the message includes extended

information/MPLS header (reference teach that sending a path setup signal based on

the MPLS header) (see abstract; column 1 lines 50-62; column 2 lines 5-26 and 41-65;

column 3 lines 34-50; column 5 lines 6-27; and column 6 line 65 to column 7 line 20).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teaching of Renwick et al stated above in the

method of Tinsley et al for generating a further message to signal the label-switched

path based on determining whether or not the message includes extended information

because it would have provided much faster and more efficient than IP forwarding, used

efficiently in an environment with multiple parallel links, and saved considerable

processing time, which leads to improved network operation (see Renwick et al column

4 lines 24-35).

21.   As to claims 2-5, Tinsley et al do not explicitly teach that the message is a label-

mapping message, the message includes a FEC-label association and a label

distribution protocol label-mapping, and the routing information was determined using

an interior gateway protocol.

Renwick et al teach that the message is a label-mapping message, the message

includes a FEC-label association and a label distribution protocol label-mapping, and

the routing information was determined using an interior gateway protocol (Forward

data packet using label switching, column 2 lines 5-65; column 5 lines 6-27; and column

6 lines 16-31).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teaching of Renwick et al stated above in the

method of Tinsley et al for using a label-mapping message and an interior gateway

protocol for routing information because it would have provided much faster and more

efficient forwarding scheme than IP forwarding and saves considerable processing time,

which leads to improved network operation (see Renwick et al column 4 lines 24-35).

22.   As to claims 6-7, Tinsley et al teach that the extended information includes

resolution next hop information and the resolution next hop information includes a host

address or prefix (Hope limit and addresses, figures 4-6; and column 5 line 57 to

column 7 line 57).

23.   As to claims 8-10, Tinsley et al do not explicitly teach that the method is

performed by a first node in a network domain, and the host address or prefix is of a

second node in the network domain; and the second node is an autonomous system

border router, the first node runs an interior gateway protocol for generating routing information in the first node, and the routing information includes an entry for the second node.

Renwick et al teach that the method is performed by a first node in a network domain, and the host address or prefix is of a second node in the network domain; and the second node is an autonomous system border router, the first node runs an interior gateway protocol for generating routing information in the first node, and the routing information includes an entry for the second node (working independently as a router, figures 1-2; column 2 lines 5-65; and column 4 line 59 to column 6 line 32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Renwick et al stated above in the method of Tinsley et al for using the first node in a network domain and the second node as an autonomous system border router because it would have provided much faster and more efficient than IP forwarding and saved considerable processing time, which leads to improved network operation (see Renwick et al column 4 lines 24-35).

24.   As to claims 11-13, Tinsley et al do not explicitly teach that the node is an ingress node of the label-switched path; and the method is performed by a second node in a first network domain, wherein the ingress node is in a second network domain.

Renwick et al teach that the first part of the message includes an address or prefix of a node, the node is an ingress node of the label-switched path; and the method is performed by a second node in a first network domain, and the ingress node is in a

second network domain (figures 1-2; column 1 lines 50-62; column 2 lines 5-40; column 3 lines 9-50; and column 4 line 59 to column 6 line 32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Renwick et al stated above in the method of Tinsley et al for using the node is an ingress node of the label-switched path, wherein the ingress node is in a second network domain because it would have provided much faster and more efficient than IP forwarding and saved considerable processing time, which leads to improved network operation (see Renwick et al column 4 lines 24-35).

25.   As to claim 14, Tinsley et al disclose that a message comprising: a) a first field including a label; b) a second field including forwarding equivalency class information; and c) a third field including label-switched path signaling resolution information, stored all fields in association with the label-switched path (figures 4-6; and column 5 line 57 to column 7 line 57), the label-switched path signaling resolution information including one of a host address and host prefix (Different addresses and headers, figures 4-6; and column 5 line 57 to column 7 line 57).

However, Tinsley et al do not explicitly teach a forwarding device, receiving the message, processes the message to (1) determine whether or not the forwarding device has a routing table entry that matches at least one of (A) the forwarding equivalency class information included in the second field, and (B) the host address or the host prefix included in the third field, and (2) use the label included in the first field for

forwarding data only if the forwarding device determined that the forwarding device has

a routing table entry that matches at least one of (A) the forwarding equivalency class

information included in the second field, and (B) the host address or the host prefix

included in the third field.

Renwick et al disclose a forwarding device, receiving the message, processes

the message to determine whether or not the forwarding device has a routing table

entry and use the label included in the first field for forwarding data only if the forwarding

device determined that the forwarding device has a routing table entry those match at

least one of (A) the forwarding equivalency class information included in the second

field, and (B) the host address or the host prefix included in the third field (figures 1-2;

column 2 lines 5-40; and column 4 line 59 to column 6   line 32).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teaching of Renwick et al stated above in the

method of Tinsley et al for forwarding equivalency class information because it would

have provided much faster and more efficient than IP forwarding, used efficiently in an

environment with multiple parallel links, and saved considerable processing time, which

leads to improved network operation (see Renwick et al column 4 lines 24-35).

26.   Claims 16-17, 19, and 24 do not teach or define any new or additional limitations

above claims 2-5 and 8-13 and are rejected for the same reasons set forth.

27.   Claims 25-37 do not teach or define any new or additional limitations above

claims 1-13 and are rejected for the same reasons set forth.

28.   As to claim 38, Tinsley et al teach that the second part of the message includes

at least one of a host address and/or prefix corresponding to a node within a local

network domain (figures 4-6; and column 5 line 57 to column 7 line 57).

29.   Claim 39 does not teach or define any new or additional limitations above claim

38 and is rejected for the same reasons set forth.

30.   As to claims 40-41, Tinsley et al do not explicitly teach generating, if it is

determined to generate a further message to signal the label-switched path, a label

mapping message; generating, if it is determined to generate a further message to

signal the label-switched path, a label mapping message including an outgoing label;

and creating a forwarding state binding between the outgoing label and a label in the

message.

        Renwick et al teach that generating, if it is determined to generate a further

message to signal the label-switched path, a label mapping message; generating, if it is

determined to generate a further message to signal the label-switched path, a label

mapping message including an outgoing label; and creating a forwarding state binding

between the outgoing label and a label in the message (reference teach that sending a

path setup signal based on the MPLS header, see abstract; column 1 lines 50-62;

column 2 lines 5-26 and 41-65; column 3 lines 34-50; column 5 lines 6-27; and column

6 line 65 to column 7 line 20).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teaching of Renwick et al stated above in the

method of Tinsley et al for generating a further message to signal the label-switched

path based on determining whether or not the message includes extended information

because it would have provided much faster and more efficient than IP forwarding, used

efficiently in an environment with multiple parallel links, and saves considerable

processing time, which leads to improved network operation (see Renwick et al column

4 lines 24-35).

31.   Claims 42-43 do not teach or define any new or additional limitations above

claims 40-41 and are rejected for the same reasons set forth.

32.   As to claim 44, Tinsley et al teach a method for use by a data forwarding device

comprising: receiving a first/second messages for establishing a label-switched path

(figures 8-9; and column 10 lines 20-24); determining whether or not the messages

includes extended information (reference teach that check the message has extension

header) (figures 4s; and column 5 line 57 to column 6 line 28); finding a first label-

switched route matching a first part of a first message; if the first message does not

include extended information (MPLS header), determining, using a first part of the

message (IP header) and routing information (reference teach that using IP header for

routing); determining that an interface of the first matching label-switched route found

matches an interface on which the first message was received (figure 7; column 8 lines

10-33; and column 12 line 43 to column 13 line 5); finding a second label-switched route

using a second part of the second message; if the message does include extended

information (MPLS header), determining, using a second part of the message (MPLS

header) and routing information (reference teach that using MPLS header for routing);

and determining that an interface of the second matching label-switched route found

matches an interface on which the second message was received (figure 7; column 8

lines 10-33; and column 12 line 43 to column 13 line 5) (figures 6A-6B and 8-9; column

6 line 56 to column 7 line 57; and column 10 line 16 to column 11 line 29).

However, Tinsley et al do not explicitly teach that whether or nor to generate a

further messages to signal the label-switched paths.

Renwick et al teach a method (see abstract; and column 1 lines 27-35),

comprising: whether or nor to generate a further messages to signal the label-switched

paths based on determining whether or not the message includes extended

information/MPLS header (reference teach that sending a path setup signal based on

the MPLS header) (see abstract; column 1 lines 50-62; column 2 lines 5-26 and 41-65;

column 3 lines 34-50; column 5 lines 6-27; and column 6 line 65 to column 7 line 20).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teaching of Renwick et al stated above in the

method of Tinsley et al for generating a further message to signal the label-switched

path based on determining whether or not the message includes extended information

because it would have provided much faster and more efficient than IP forwarding, used

efficiently in an environment with multiple parallel links, and saved considerable

processing time, which leads to improved network operation (see Renwick et al column

4 lines 24-35).

33.   Claims 45-48 do not teach or define any new or additional limitations above

claims 2-4 and 6 and are rejected for the same reasons set forth.

RESPONSE TO ARGUMENTS

34.   The examiner summarizes the various points raised by the appellant and

addresses them individually.

35.   As per appellants' arguments filed on December 01, 2008, appellants argued in

substance that:

(A)   Argument: Appellant's arguments (Brief Page 12, respect to claims 45-48) with

respect to objections of the claims 45-48 have been fully considered and found

persuasive; therefore, the objections to claims 45-48 have been withdrawn.

(B)   Argument: Appellant argues (Brief Page 13, respect to claim 14) that the data

structure need not be program instructions executable by a computer or a processor,

and (Brief Page 14) claim 14 recites a physical or logical relationship among data

elements, designed to support specific data manipulation functions stored on a

machine-readable storage device; therefore, the claims 14, 16, 17, 19, and 24 recites

statutory subject matter in view of the foregoing.

Response: Claim 14 is rejected under 35 U.S.C. 101 because the claimed

invention of the claim 14 is directed to non-statutory subject matter. Claim 14 recited "A

machine-readable storage device storing...: a first field..., a second field..., and a third

field..." stored information associated with a label switch path, which is not an actual

program product and "a forwarding device" does not execute these fields to perform the

process/method, which is non-functional descriptive material. Thus the rejection under

101 as being an abstract idea, not being tangibly embodied, and not being in a manner

so as to be executable in or by a computer or processor.

(C)   Argument: Appellant argues (Brief Pages 15 and 21-24), that claims 1, 25, and

44 are not rendered obvious by the Tinsley and Renwick patents, and (Brief Pages 16

and 22) the combination of the Tinsley and Renwick do not concern receiving a

message for establishing a label-switched path as recited in the claims 1, 25, and 44.

Response: Tinsley et al teaches _receiving a message for establishing a label-_
switched path (figures 8-9; and column 10 lines 20-24).

Renwick et al teaches_sending a path setup signal based on the MPLS header_
(see abstract; column 1 lines 50-62; column 2 lines 5-26 and   41-65; column 3 lines 34-
50; column 5 lines 6-27; and column 6 line 65 to column 7 line 20).

(D)   Argument: Appellant disagrees (Brief Page 16, respect to claim 1) with the
characterizations that the MPLS header of the Tinsley patent as both the claimed
"second part of a message" and the claimed "extended information".

Response: Specifically, Tinsley patent discloses that check the message
including MPLS header, which is "second part of a message" (see figure 6A and column
7 lines 22-39), and check the MPLS header including extended fields, which is
"extended information" (see figure 6B and column 7 lines 40-52), which reads on the
claimed limitations.

(E)   Argument: Appellant argues (Brief Pages 17 and 23, respect to claim 1) that the
combination of the Tinsley and Renwick do not determine whether to use a first part or a
second part of a message to generate a further message for signaling the label-
switched path depending on whether the message includes extended information.

Response: Specifically, Tinsley patent discloses that message has only IPv6
header and extension headers are optional, and routing the packet based on its IP
header information (column 5 lines 57-66 and column 6 lines 56-65), which inherently
implies not to generate a further message to signal the label-switched path. Also Tinsley
patent discloses that the message has MPLS header, and routing the packet based on
its MPLS header information (column 6 line 56 to column 7 line 5); and Renwick patent
teaches sending a path setup signal based on the MPLS header (column 2 lines 5-26
and 41-65), which reads on the claimed limitation of generate a further message to
signal the label-switched path.

(F)   Argument: Appellant argues (Brief Page 18, respect to claim 1) that the

Examiner has failed to establish a prima facie case of obviousness and not shown that

there is some suggestion or motivation to combine the Tinsley and Renwick Patents.

Response: Examiner establishes a prima facie case of obviousness (see

rejection of claim 1) and shows that there is some suggestion or motivation to combine

the Tinsley and Renwick because Tinsley teaches that determining weather or not the

message includes extended information and using specific routing information based on

the determining step (figures 4s, 6s, and 8-9; and column 6 line 56 to column 7 line 20);

and Renwick teach that sending a path setup signal based on the MPLS header (see

abstract; and column 2 lines 5-26 and 41-65).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teaching of Renwick et al in the method of

Tinsley et al for generating a further message to signal the label-switched path based

on determining whether or not the message includes extended information because it

would have provided much faster and more efficient than IP forwarding, used efficiently

in an environment with multiple parallel links, and saved considerable processing time,

which leads to improved network operation(see Renwick et al column 4 lines 24-35).

(G)   Argument: Appellant argues (Brief Pages 19-20, respect to claim 14) that the

claim 14 is not rendered obvious by the Tinsley and Renwick patents.

Response: Tinsley et al disclose that a message comprising: a) a first field

including a label; b) a second field including forwarding equivalency class information;

and c) a third field including label-switched path signaling resolution information, stored

all fields in association with the label-switched path (figures 4-6; and column 5 line 57 to

column 7 line 57), the label-switched path signaling resolution information including one

of a host address and host prefix (Different addresses and headers, figures 4-6; and

column 5 line 57 to column 7 line 57). However, Tinsley et al do not explicitly teach the

function of a forwarding device.

Renwick et al disclose a forwarding device, receiving the message, processes

the message to determine whether or not the forwarding device has a routing table

entry and use the label included in the first field for forwarding data only if the forwarding

device determined that the forwarding device has a routing table entry those match at

least one of (A) the forwarding equivalency class information included in the second

field, and (B) the host address or the host prefix included in the third field (figures 1-2;

column 2 lines 5-40; and column 4 line 59 to column 6   line 32).

It would have been obvious to one of ordinary skill in the art at the time the

invention was made to incorporate the teaching of Renwick et al stated above in the

method of Tinsley et al for forwarding equivalency class information because it would

have provided much faster and more efficient than IP forwarding, used efficiently in an

environment with multiple parallel links, and saved considerable processing time, which

leads to improved network operation. Accordingly, appellant's arguments that the claim

14 is not rendered obvious by the Tinsley and Renwick patents are moot.

(H) **Argument:** Appellant argues (Brief Pages 25-26, respect to claims 6-8, 10, 30-32, 34, and 47) that the Tinsley does not teach that the extended information or the second part of the message includes resolution next hop information.

Response: Tinsley explicitly teaches that the extended information or the second part of the message includes resolution next hop information (see figures 4A-4B and column 5 line 57 to column 6 line 28).

(I) **Argument:** Appellant argues (Brief Pages 27-28, respect to claims 9 and 33) that the Renwick does not teach that the second node is an autonomous system border router.

Response: Renwick explicitly teaches that the second node is an autonomous system border router (figures 1-2; column 2 lines 5-65; and column 4 line 59 to column 6 line 32). Also Renwick teaches that the egress node sends its allocated label back to the next preceding node, which stores the label and generates its own label for the traffic and transmits that label back to its next preceding node, which implies that the second node is an autonomous system border router (working independently as a router) (see figures 1-2 and column 2 lines 5-65).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Renwick et al stated above in the method of Tinsley et al for using the first node in a network domain and the second node as an autonomous system border router because it would have provided much

faster and more efficient than IP forwarding and saved considerable processing time, which leads to improved network operation.

(J)   Argument: Appellant argues (Brief Page 29, respect to claims 13 and 37) that the Renwick does not teach that the method is performed by a second node in a first network domain, and the ingress node is in a second network domain

Response: Renwick explicitly teaches that the method is performed by a second node in a first network domain, and the ingress node is in a second network domain (figures 1-2; column 1 lines 50-62; column 2 lines 5-65; column 3 lines 34-50; and column 4 line 59 to column 6 line 32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the teaching of Renwick et al stated above in the method of Tinsley et al for using the node is an ingress node of the label-switched path, wherein the ingress node is in a second network domain because it would have provided much faster and more efficient than IP forwarding and saved considerable processing time, which leads to improved network operation.

EVIDENCE AND RELATED PROCEEDING(S) APENDIX

36.   No evidence is relied upon by the examiner in the rejection of the claims under appeal.

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

37.   For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in sections

(9-14) above. Accordingly, appellant must within **TWO MONTHS** from the date of this

answer exercise one of the following two options to avoid *sua sponte* **dismissal of the**

appeal as to the claims subject to the new ground of rejection:

(1) **Reopen prosecution.** Request that prosecution be reopened before the

primary examiner by filing a reply under 37 CFR 1.111 with or without amendment,

affidavit or other evidence. Any amendment, affidavit or other evidence must be

relevant to the new grounds of rejection. A request that complies with 37 CFR

41.39(b)(1) will be entered and considered. Any request that prosecution be reopened

will be treated as a request to withdraw the appeal.

(2) **Maintain appeal.** Request that the appeal be maintained by filing a reply

brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of

rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the

other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR

41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be

treated as a request that prosecution be reopened before the primary examiner under

37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO

MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to

reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex

parte reexamination proceedings.

Respectfully submitted,

/Bharat N Barot/

Primary Examiner, Art Unit 2455

May 27, 2010

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in sections (9-14) above by signing below:

/Timothy P Callahan/

Director, Technology Center 2400

Conferees:

/saleh najjar/

Supervisory Patent Examiner, Art Unit 2455

/Philip B Tran/

Primary Examiner, Art Unit 2455